

fore, could proceed no further in the case. Since the government was entitled, at the time the case was tried, to a judgment or decree as prayed, and, in view of the death of the defendant, a decree will be entered nunc pro tunc as of the date the case was submitted.

#### FINDINGS OF FACT

"1. All of the literature used by the defendant and offered in evidence, whether used over the container of the drug or in the packages, actually physically accompanying the drug, or whether sent before, or subsequently, served the function of labeling and should be treated as such.

"2. Such literature and drugs were introduced and were being introduced by the defendant in interstate commerce through the mails as alleged in the complaint.

"3. Said literature was intended by the defendant as a labeling of his drug and actually served that purpose as well as for advertising matter.

"4. Said literature as labeling matter misrepresented the efficaciousness of said drug or drugs and operated as a fraud upon the public.

#### CONCLUSIONS OF LAW

"1. The defendant having misbranded his drugs by labels attached thereto or accompanying same, and such misbranding having been done in interstate commerce, the defendant should be enjoined from further violations of Section 331, Title 21 U. S. C. A."

On or about October 14, 1946, a decree was entered permanently enjoining the defendant, his agents, and all persons at that time or thereafter, acting by, through, or under the defendant, from distributing in interstate commerce or exporting in foreign commerce a large supply of the tablets which he had on hand at his place of business in Kansas City, Mo., or at any other point, or any other quantity of drugs subsequently acquired, which were misbranded; and it was further ordered that the decree take effect as of September 27, 1946.

**1981. Action to enjoin and restrain the interstate shipment of Mag-Net-O-Balm. U. S. v. Samuel Cohen (S. C. Sales Co.). Injunction granted. (Inj. No. 136.)**

**COMPLAINT FILED:** On March 15, 1946, District of Maryland, against Samuel Cohen, an individual, and Samuel Cohen, trading as S. C. Sales Co. The complaint charged that prior to and since July 1, 1945, the defendant had been shipping in interstate commerce consignments of *Mag-Net-O-Balm*, a drug, which was misbranded in various respects.

**NATURE OF CHARGE:** Misbranding, Section 502 (a), the statements on the tubes and cartons and in a circular accompanying a shipment made on or about July 11, 1945, were false and misleading since the statements in the labeling represented that the article would be efficacious in the treatment of reducible rupture, rheumatic pains, chest colds, head colds, symptomatic rheumatic pains, muscular lumbago, stiff neck, sprains, and sciatica. Other shipments of the product made prior to that time were misbranded because of similar false and misleading curative and therapeutic claims.

**PRAYER OF COMPLAINT:** That the defendant be restrained and enjoined, during the pendency of the action and permanently, from shipping in interstate commerce misbranded drugs.

**DISPOSITION:** May 29, 1946. The defendant having failed to file an answer or any other pleading, a permanent injunction was granted against the defendant individually, and trading as the S. C. Sales Co., from shipping in interstate commerce the drug, *Mag-Net-O-Balm*.

**1982. Misbranding of Allen's Nijara Capsules. U. S. v. Allen Products Co., Inc., and Marion Allen. Pleas of guilty. Fine, \$75. (F. D. C. No. 10539. Sample Nos. 37131-F, 37143-F, 37149-F.)**

**INFORMATION FILED:** March 24, 1945, District of Columbia, against the Allen Products Co., Inc., Washington, D. C., and Marion Allen, president of the corporation.

**ALLEGED SHIPMENT:** On or about February 24 and March 23, 1943, within the District of Columbia.

**PRODUCT:** Microscopic examination showed that the product consisted essentially of green stem and leaf material, including parsley and water cress. Vitamin assays showed that the product contained per capsule less than 5 U. S. P. Units of vitamin A, 4.4 micrograms (0.0044 milligram) of thiamine hydrochloride (vitamin B<sub>1</sub>), 0.5 milligram of vitamin C, less than 4 U. S. P. Units of vitamin D, 9 micrograms (0.009 milligram) of riboflavin, and 86 micrograms (0.086 milligram) of nicotinic acid. Chemical analysis showed that each capsule contained approximately 4.3 milligrams of calcium, 3.2 milligrams of phosphorus, and 0.4 milligram of iron.

**NATURE OF CHARGE:** Misbranding, Section 502 (a), certain statements in the circulars enclosed in the boxes containing the article were false and misleading in that they represented and suggested that the article would be efficacious as a soothing pain relief from rheumatism, arthritis, neuritis, sciatica, gout, lumbago, and sinusitis; that the article would relieve pain from rheumatic disorders; and that the article would be efficacious in the treatment of mild cases and long standing cases of rheumatism, arthritis, neuritis, sciatica, gout, lumbago, and sinusitis. The article would not be efficacious for those purposes.

The article was also alleged to be misbranded under the provisions of the law applicable to foods, as reported in notices of judgment on foods.

**DISPOSITION:** June 22, 1945. Pleas of guilty having been entered on behalf of the defendants, the court imposed a total fine of \$75.

**1983. Misbranding of Sano. U. S. v. William J. Nassano (Sano Medicine Co.).**  
**Plea of guilty. Sentence suspended and defendant placed on probation for 1 year.** (F. D. C. No. 17838. Sample No. 4534-H.)

**INFORMATION FILED:** March 8, 1946, Northern District of Ohio, against William J. Nassano, trading as the Sano Medicine Co., Cleveland, Ohio.

**ALLEGED SHIPMENT:** On or about May 15, 1945, from the State of Ohio into the State of Pennsylvania.

**NATURE OF CHARGE:** Misbranding, Section 502 (a), certain statements on the label of the article were false and misleading since they represented and suggested that the article was a tonic; that it would aid in the relief of rheumatism; that it would be efficacious in the cure, treatment, and prevention of constipation; that it would be efficacious to eliminate uric acids and toxins from the system; and that it would assist in removing the cause of uric acids and toxins from the system. The article was not a tonic, and it would not be efficacious for the purposes represented.

**DISPOSITION:** May 29, 1946. A plea of guilty having been entered, the court suspended the imposition of sentence and placed the defendant on probation for a period of 1 year.

**1984. Misbranding of cotton-tipped applicators. U. S. v. 16 Gross Vials of Cotton-Tipped Applicators. Default decree of condemnation and destruction.** (F. D. C. No. 20026. Sample No. 43786-H.)

**LABEL FILED:** May 22, 1946, Southern District of California.

**ALLEGED SHIPMENT:** On or about November 21 and December 24, 1945, by the Glasco Products Co., from Chicago, Ill.

**PRODUCT:** 16 gross vials of *cotton-tipped applicators* at Los Angeles, Calif. Examination showed that the article was not sterile but was contaminated with living micro-organisms.

**LABEL, IN PART:** "Cotton-Tipped Applicators 20 in Each Vial \* \* \* Stero Swabs for Baby's Eyes, Ears and Nose."

**NATURE OF CHARGE:** Misbranding, Section 502 (a), the label statement "Stero Swabs for Baby's Eyes, Ears and Nose" was false and misleading since it implied that the article was sterile.

**DISPOSITION:** July 12, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**1985. Misbranding of Ademo Tablets. U. S. v. 36 Bottles of Ademo Tablets, and a number of circulars. Default decree of condemnation and destruction.** (F. D. C. No. 19734. Sample Nos. 19552-H, 19553-H.)

**LABEL FILED:** May 1, 1946, Northern District of Iowa.

**ALLEGED SHIPMENT:** On or about April 30 and August 20, 1945, and February 6, 1946, by H. W. Walker and Co., from Chicago, Ill.

**PRODUCT:** 10 300-tablet bottles, 14 150-tablet bottles, and 12 42-tablet bottles of *Ademo Tablets* at Cedar Rapids, Iowa, together with 51 circulars entitled "Powerful Rugged Red Blood."